

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 40

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BORIS MASINOVSKY *et al.*

Appeal No. 2001-1732
Application No. 08/448,649

MAILED

APR - 3 2002

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

DECISION ON PETITION

On March 24, 2003, the appellants filed a Petition under 37 CFR § 1.183 requesting that the separate paper requirement of 37 CFR § 1.194(b) be suspended (Paper No. 39). The basis for the request is that the appellants believe the filing of a request for oral hearing in the reply brief transmittal sheet (first paper) satisfied the requirement of 37 CFR § 1.194(b) in that it was separate from the reply brief (second paper). The Petition has been DENIED.

Although the appellants may have submitted both a reply brief and a transmittal of a reply brief, which the latter included therein an oral hearing request, fact remains that a separate paper requesting an oral hearing had not been submitted. Moreover, there has not been presented a showing of facts that an extraordinary situation existed which prevented the filing of a separate

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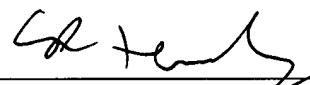
paper requesting an oral hearing. In fact, the appellants have not provided any explanation of why a separate paper requesting an oral hearing was not filed.

Accordingly, for the reasons given above, the Petition is DENIED, and

It is further ORDERED that the application be decided based upon the written record before the Board of Patent Appeals and Interferences.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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